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Тема броја:

Истраживање миграција

Topic of the Issue:

Research of Migrations

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The Reproduction of Borders and the Contagiousness of Illegalisation: A Case of a Belgrade Youth Hostel

For the past couple of years, Serbia has become a transit country for the ever increasing number of migrants from Africa and Asia, travelling towards the EU. As part of the process of approaching the EU – first achieving the liberalisation of the visa regime for entry into the Schengen area in 2009 and then getting the official status of a candidate member in 2012 – Serbia needed to harmonise its policies with those of the EU, especially in the areas of border control and migration management. As a result, Serbia adopted a series of laws and policies which effectively *illegalise* migrants. In this paper, we first look into how migrant “illegality” is produced by Serbian migration legislation and policy, and second, we look at the consequences of this illegalisation. The first set of consequences are those that are felt by migrants themselves, as they are its principle target. The second set of consequences affects those persons that come into contact with the illegalised migrants. We speak of *contagiousness of illegalisation*, which affects those people who are providing professional services to illegalised persons. Under the threat of possible criminalisation, pressure is put on them to conduct “legality” checks and thus *reproduce borders* far away from the actual state border. We look particularly at reproduction of borders in the area of accommodation of migrants, taking as a case study a Belgrade youth hostel.

Key words:

migrants,
illegalisation,
contagiousness of
illegality,
criminalisation,
crimigration,
reproduction of
borders, Serbia,
Belgrade, youth
hostel

1. Introduction

For the past couple of years, Serbia has become a transit country for the ever increasing number of migrants from Africa and Asia (for some of the reasons for this, see Stojić Mitrović 2013, 164-5). Migrants usually arrive through Turkey and Greece. They are mostly traveling without valid documents and aiming to reach the EU. It is difficult to know how many people exactly are transiting every year, but the estimations point to several tens of thousands of people. Frontex reports tens of thousands detections of persons “illegally crossing green borders” in 2014 (Frontex 2015, 25).¹

Since the migrants travel without valid documents, they enter Serbia “illegally” – and it is precisely this “illegality” that is the focus of our paper. We follow De Genova in contending that “‘illegality’” (much like citizenship) is a juridical status that entails a social relation to the state” (De Genova 2002, 422) – it is thus specifically *produced* as a result of the law, which “defines the parameters of its own operations, engendering the conditions of possibility for ‘legal’ as well as ‘illegal’ practices,” (Ibid., 424). We use the term *illegalisation* to refer to the production of migrant illegality. To speak of migrant *illegality*, rather than *illegal migrants*, is to make explicit the mechanisms that produce illegality and thus avoid what De Genova calls the “naturalisation of migrant ‘illegality’” (Ibid., 421), i.e. to avoid seeing migrants appearing on the Serbian territory as being somehow intrinsically “illegal”.

In this paper, we want to illuminate the consequences of illegalisation of migrants in Serbia, focusing more specifically on the aspect of their accommodation. After briefly presenting the mechanisms of the legal production of illegality – and temporary legality – of migrants in Serbia, we will deal with the following two questions. First, we want to give some ethnographic insights which will explain how being illegalised affects a person's possibility to find accommodation and show the consequences of illegalisation on those who have been illegalised. And second, we want to give ethnographic insights into what we call the “contagiousness” of illegalisation, and especially the threat of criminalization that affects everyone who comes into contact with migrants (either through their professional activity, or otherwise). Here we will focus mostly on the effects of this “contagiousness” on the people who hold youth hostels in Belgrade and show that in the youth hostels, the

¹ In its latest *Western Balkans Annual Risk Analysis* report from 2015, it is stated that in 2014, there were “29 852 reported persons originating outside the Western Balkans detected while illegally crossing green borders” (Frontex 2015, 25), of which most were caught on one of the Serbian borders: 73% were caught on the Serbian-Hungarian border, 11% on the Macedonian-Serbian border and 3% on the Bulgarian-Serbian border. The number of detections of illegal border crossing tell us more of policing efforts on these borders, than of the real numbers of people crossing them – simply because not everyone crossing the border “illegally” is caught. Thus for example, in February 2015, around 1000 people were reported to be caught every month by the police – see: <http://www.novosti.rs/vesti/naslovna/hronika/aktuelno.291.html:536154-Mesecno-uhvate-po-1000-migranata>, accessed 26th May 2015.

borders get reproduced as the regular citizens (who hold youth hostels or work there) are forced to conduct document checks on their guests.

Our conclusions and analysis are derived from a half a year research initiative, based in Belgrade. During this period, we focused on two groups. On the one hand, we conducted regular participant observation in the Belgrade parks around the train and the main bus station, where the illegalised migrants are often spending time, and conducted informal interviews with tens of migrants, who talked to us also about their difficulties in relation to their temporary accommodation. On the other hand, we tried to talk with youth hostel owners and their experiences with housing the migrants. We visited six youth hostels. However, only two youth hostel owners were willing to talk to us openly. The very fact that youth hostel owners did not want to speak frankly about the topic is indicative of the stigma and the fear that surrounds all the activities, connected with the illegalised migrants, and is a testimony of the “contagiousness” of illegalisation that we will speak about later. Therefore, we decided to focus on one youth hostel and its owner, with whom we developed a relationship of trust and she talked to us openly about her experiences. We are in regular contact with her and have conducted three in-depth semi-structured interviews. Besides this, we have both been researching the topic of migration through Serbia over the past three years and the insights from the field-notes of this period are also used in this paper.

2. Temporal shift between “legality” and “illegality” and the consequences of illegalisation on migrants’ accommodation

The situation concerning migrants traveling through Serbia has changed in the last several years, as a result of the influence of the EU in the region. As a part of the process of approaching the EU – first achieving the liberalisation of the visa regime for entry into the Schengen area in 2009² and then getting the official status of a candidate to enter the EU in 2012 – Serbia needed to harmonise its policies with those of the EU, especially in the areas of border control and migration management (Stojić Mitrović 2014). We speak of the process of *externalization* of the EU migration politics in Serbia (see Stojić Mitrović 2012), when the EU obliges its neighboring countries to adopt the same restrictive logic to border control and the same mechanisms of migration management (for an example of the externalization of the EU migration politics in West Africa, see Andersson 2014; for the influence of the EU enlargement policy on the Western Balkan states concerning visa liberalization process see Kačarska 2012; for some consequences of the adoption of the EU migration policy in Serbia see Djordjević 2013). Since 2008, Serbia has thus adopted a series of new legislation. On the one hand, there is the Aliens Act (regu-

² Until 2009, Serbian citizens needed a visa to enter the Schengen area. In 2009, the visa regime was liberalised and now Serbians with a valid travel document can enter the Schengen area for 90 days without a visa.

lating the entry, movement and residence of foreigners)³ and the Law on State Border Protection⁴, which are entirely restrictive pieces of legislation in terms of the transit migration through Serbia. On the other hand, there is the Asylum Act⁵ and subsequently adopted migration management strategies and legislation⁶, which provide some set of rights to those transiting migrants who seek asylum in Serbia – but which remain couched in the mechanisms of control of migratory flows towards the EU.

The law that most directly produces migrant illegality in Serbia is thus the Aliens Act – it defines conditions of legal entry that most migrants from Asia and Africa can never fulfill and therefore provides a basis on which these migrants are *illegalised*. The piece of legislation, which temporarily legalises persons thus illegalised, is the Asylum Act. The Asylum Act is based on the UN 1951 Convention Relating to the Status of Refugees (or the Geneva convention) and the 1967 Additional Protocol and its aim is to provide international protection to people fleeing their countries due to a well-founded fear of persecution on the basis of race, religion, nationality, political opinion or membership of a particular social group (for the development of the modern “refugee regime” and the related refugee studies, see Malkki 1995 and Petrović 2014). In reality, Serbian asylum system is entirely dysfunctional (Jelačić 2013; cf. Bobić and Babović 2013, 223). The number of people getting protection is extremely small: of the 28,295 people, who have expressed an intention to seek asylum in Serbia between 2008 and 2014, only six have been granted refugee status and 12 subsidiary protection (BCHR 2014, 14). Furthermore, there is no integration policy in Serbia and as a result, even many of those who receive refugee status in Serbia, leave the country. Finally, the migrants do not see Serbia as a country of protection.

However, the Asylum Act provides people with the possibility to at least temporarily achieve some legal status. When a person expresses an intention to seek asylum – which can in principle be done at any police station, but in practice, mi-

³ Zakon o strancima RS (Službeni glasnik RS, br. 97/2008), available in Serbian at http://www.paragraf.rs/propisi/zakon_o_strancima.html and in English at <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=country&category=&publisher=NATLEGBO&type=&coi=SRB&rid=&docid=4b5d715a2&skip=0>, accessed 26th May 2015.

⁴ Zakon o zaštiti državne granice RS (Službeni glasnik RS, br. 97/2008), available in Serbian at http://www.paragraf.rs/propisi/zakon_o_zastiti_drzavne_granice.html and in English at <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=country&category=&publisher=NATLEGBO&type=&coi=SRB&rid=&docid=4b5d92582&skip=0>, accessed 26th May 2015.

⁵ Zakon o Azilu RS (Službeni glasnik RS, br. 109/2007), available in Serbian at http://www.paragraf.rs/propisi/zakon_o_azilu.html and in English here <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=47b46e2f9>, accessed 26th May 2015.

⁶ In July 2009, first the Strategy on Migration Management (http://www.srbija.gov.rs/extfile/sr/114288/strategija_upravljanje_migracijama0128_cyr.zip) was adopted, followed by the Law on Managing Migration in 2012 (Zakon o upravljanju migracijama RS ("Sl. glasnik RS", br. 107/2012) available in Serbian here: http://www.kirs.gov.rs/docs/Zakon_o_upravljanju_migracijama.pdf). Besides, there is also a Strategy to Fight Illegal Migration in the 2009-2014 period, adopted in March 2009 (http://www.srbija.gov.rs/extfile/sr/107127/strategija_protiv_ilegalnih_migracija0077_lat.zip), all accessed 26th May 2015.

grants are often refused the right to seek asylum (see Human Rights Watch 2015) – they are issued with a paper, assigning them to one of the centers for asylum seekers⁷, to which they must report in the prescribed period of 72 hours since the issuance of the form.

Receiving the “72 hour paper” – as migrants often call it – is very important, as it is the possession of this paper that marks the difference between being “illegal” and “temporarily legal” in Serbia. The “offense” of entering Serbia “illegally” is forgiven to persons seeking asylum and for 72 hours – or longer if they registered in the center for asylum seekers – migrants are legally residing in Serbia.

Having the “72 hour paper” means passing from the *non-place* (cf. Augé 1995, 94) in which the illegalised are marginalised, to being included only partially and in an subordinate way⁸ – and to be entitled to some rights. According to the law, asylum seekers are entitled to the get medical care, beyond just the lifesaving interventions of emergency health care that any human being on Serbian territory is entitled to. Having an asylum seeker's paper also means being able to be accommodated legally: either in the center for the asylum seekers, or finding a bed in a hostel, taking a shower and changing clothes for a reasonable price, without being afraid of being rushed out in the middle of the night due to a sudden police control. For people who are exhausted or ill, this can mean a difference between freezing in snow or on *košava* wind or getting wet in spring showers, being exposed to possible robberies and police violence – and having some rest, a safe base. For many migrants we spoke with, this shifting between categories of “illegality” and “temporary legality” is relatively quick: they arrive as “illegal”, become “legal” for three days, they rest, take a shower, and then become “illegal” again, on their way towards the EU.

Without the “72 hours paper”, then, migrants are reduced to being “illegal”. There are two different options: either migrants entered “illegally” and were never apprehended by the police⁹, or they were apprehended by the police at the border, or somewhere on the territory. The Aliens Act defines illegal entry (article 10) and illegal residence (article 42) and specifies a fine for illegal entry (article 84 – between 10 000 and 50 000 dinars, or 100-500 EUR) and illegal residence (article 85

⁷ There are 5 centers for asylum seekers currently operating in Serbia. The closest one to Belgrade is Krnjača, located in the suburbs of Belgrade. Then there is Bogovađa, about one a half hour drive towards the South. Then there is Banja Koviljača, close to the Bosnian border and Sjenica and Tutin being the most far away, around 300 km towards the South-West of the country. The asylum center in Banja Koviljača is the oldest one and the only permanent center for accommodation of the asylum seekers. All the others are of a temporary character and they have been opened as a consequence of the “emergency” situations – the lack of accommodation space for all the persons willing to be accepted in a center (see more about this in Stojić Mitrović 2014a).

⁸ As Colectivo Situaciones say: “Exclusion is the place that our biopolitical societies produce to be able to include people, groups, and social classes in a subordinate way,” (Colectivo Situaciones 2003).

⁹ Indeed, based on the statistics of Frontex (see footnote 1), the number of migrants that are apprehended *entering* Serbia, is much smaller than the number of migrants apprehended *leaving* Serbia – so we can conclude that a great deal of migrants enter without ever being apprehended.

– between 6 000 and 30 000 dinars or 60-300 EUR). For those who have no money, there is an option to “pay the fine” with serving a few days in the local district prison (with one day in prison being equal to 10 EUR fine). This is a general prison and *not* a specialised detention facility for “foreigners”. *After* paying the fine, or serving time in prison, migrants are given a written decision, obliging them to leave the country within a period, prescribed by the authorities, but no longer than 30 days (article 43). While this paper does not provide migrants with a *legal* status, showing it to the police can exempt them from being fined again – and it also allows them to be *legally* accommodated by the accommodation service providers (hostels and youth hostels).

Most migrants arriving to Belgrade have walked through Macedonia, or across the Bulgarian-Serbian border, and are exhausted, after days of walking, sleeping in the forests, eating only dry biscuits and often getting attacked and robbed by the local mafia or blackmailed for money by the police (see Human Rights Watch 2015). They often told us that they have sought asylum, not because they had a hope of settling in Serbia and finding protection¹⁰, but because they wanted to rest, eat regularly, sleep in a proper bed – and take some days to figure out how they can continue the journey. An Afghan family with three small children (1, 5 and 7 years old) have walked for 12 days across Macedonia and needed a few days to regain their strength. They sought asylum, to obtain the “72 hour paper”, to either go to one of the centers for asylum seekers, or to stay in one of the cheap youth hostels close to the train station.

When expressing an intention to seek asylum – and getting the “72 hours paper” – migrants can be sent to any of the 5 center for asylum seekers. For those seeking asylum in Belgrade, the best option is to be sent to the center in Krnjača, located in the outskirts of Belgrade and easily reachable by public transport. If they are sent to one of the more remote centers – for example those in Sjenica or Tutin, in the South-West of the country, around 300 km away from Belgrade – it is often too far away and expensive to travel all the way to the center. In this case, they use the “72 hours paper” to stay legally in one of the youth hostels. The usual price for guests in Belgrade hostels is around 5 or 8 EUR per night – but if they cannot afford this, they often sleep in one of the Belgrade's parks.¹¹ Furthermore, when the

¹⁰ A brief look at the numbers of people “processed” by the asylum system, confirms that the motivation of people to seek asylum is not linked with their hope to indeed stay in Serbia: in 2014, out of the 16 490 people who expressed intention to seek asylum (i.e. who got the “72 hour paper”), 11 118 were accommodated in a center for asylum seekers, but only 1350 stayed long enough to register their asylum claim, of which only 460 had their ID card issued and only 18 had their first asylum interview (BCHR 2014). This means most people have left, before they were officially processed in the asylum system.

¹¹ During our field work in Banja Koviljača, a place where the first asylum center in Serbia had been opened, we got interesting information about accommodation of people without documents. They have usually been accommodated in the objects that were not intended for human accommodation, like farm or industrial objects, shops, unfinished houses, abandoned flats etc. These have been rather expensive, even though they usually did not even have any running water or electricity. Some of the owners charged per person and some per object, some charged for a night

weather is bad, people search for shelters in abandoned houses and the other objects, like mechanic stores, empty wagons, or simply under the bridges. It is also common that they stay in cafes and restaurants near the bus and the railway station until the end of their working hours in order to get a roof above their heads as long as it is possible. There are a few public drinking fountains, where they can fill their bottles and wash their hands.

Spending time in the Belgrade parks, many migrants told us about the frustrating experience they had at the Belgrade police station. Very often we hear that the police would not issue them the “72 hour paper”. When they come in the evening, they tell them that “the police is closed” (even though the station is working 24 hours), or to “come tomorrow”. Even during the day, they tell them that they should come at a different time, or even to go to a different police station.¹² Often migrants report that the policemen shouted at them, provided them no translators and humiliated them in various ways. They usually have to wait for long hours, without being given any water, sitting on the cold concrete floor, falling asleep from exhaustion. Yet, without the “72 hours paper” (or at least the written decision to leave the territory) migrants cannot legally be accommodated in the hotels and youth hostels.

In this first part, we have presented the experience of migrants, traveling through Serbia, who are put – at least at some point – into the category of being “illegal”. While the “illegality” is only enforceable by the law in the domain of entry and residence, the discourse around “illegal migration” often presents the whole *human being* as being “illegal” (De Genova 2015). We have shown how “illegality” is produced and how human beings are illegalised – and we now turn to the question of how this illegalisation can be contagiously spread to everyone they come in contact with.

and some for a week's stay. Accommodating migrants in such objects allowed the owners to avoid tourist inspection and thus paying the tourist tax for renting accommodation. Nevertheless, some of them have been prosecuted and charged for housing persons without valid documents. In other words, even though some of the people managed to avoid tourist inspection, they did not avoid police control.

¹² It is not entirely clear why the police do not give out more papers. There are different interpretations and guesses we can hear from the migrants themselves and from different state officials and the NGOs: this could be a directive from some high police or state officials; it could be that the police lacks employees – especially people who speak any foreign language and are thus in a position to take the first interview – that there is no space in the asylum centers, not sufficient money for their upkeep, and that therefore the police does not want to issue to many forms, sending people to the centers; we heard the rumor that the police officers just despise migrants, that the police officers ask migrants for money, etc. Whatever reasons are, it appears that this is undoubtedly happening – even though the police consistently deny these allegations. Whenever we asked the police officers *why* people were turned away, we often got a similar response. Once a police officer said: “How can you believe these people? They are without any documents that would proof who they are. I can also say I am Marco Polo, but without any document to prove it, would you believe me? And would you believe *anything* I say, if I had no document?” However, since the Human Rights Watch (2015) published a report where this issue is clearly documented, denying it is even more difficult. Furthermore, while conducting our research in Belgrade parks, we have noticed that since the mid May 2015, the police had started to approach migrants in the parks telling them to leave, either to the bus station or to the camps.

3. Contagiousness of illegalisation

We speak of *contagiousness of illegalisation* because coming in touch with someone who has been illegalised can mean breaking the law. According to the Aliens Act (article 45), any person residing illegally must be reported to state organs without a delay¹³. This means anyone coming into contact with the illegalised persons is under *obligation* to report to the police – thereby under, at least a theoretical, obligation to conduct “document checks” and *reproduce borders* and divisions between legality and “illegality” everywhere, not just at the physical border. To make things even more dangerous, any exchange of money for services with the illegalised can be perceived as being involved in *facilitating illegal border crossing* and *smuggling* (article 350 of the Serbian Criminal Act).¹⁴

In this sense, the “illegality” can spread onto everyone who come in contact with the illegalised persons: doctors that treat them in hospitals without reporting them to the police, taxi drivers that drive them in their taxis, hostel owners that rent them a bed for a night. During the research in the border area between Serbia and Croatia, a doctor working in the municipality of Sremska Mitrovica, told us the following story: „While going to Jamena to work (i.e. a village on the border between Serbia, Bosnia and Herzegovina and Croatia), I saw a group of migrants. They got lost in the forest. ... It was obvious that they were exhausted, thirsty and starving. I gave them water and then I called the police. The police came and took them. It was the only right way to do it.” The medical workers are obliged to report foreigners without documents, as it was later confirmed in the interviews with the other doctors treating migrants on more or less regular basis. The “legality control” is thus normalized in the context of medical care. On the other hand, taxi drivers received official recommendation from the Union of taxi associations that they should not accept “asylum seekers” (in Serbian: *azilanti* – this is a word which often serves as a generic name for migrants transiting through Serbia on their way to the EU, even in cases when they do not have the 72 hours paper), which, eventually, received wide disapproval from taxi drivers themselves and NGOs dealing with discrimination issues.¹⁵ „How can I know whether they are with or without documents? I am not allowed to ask them to show me their ID cards or passports or anything. If I am deciding not to let them in on the basis on how they look, I am committing an offense because I am discriminating according to their physical appearance“, a taxi driver objected.

¹³ The text of this law in the Serbian language is available on: <http://www.mup.gov.rs/cms/resursi.nsf/zakon%20o%20strancima.pdf>, accessed on 23rd May 2015

¹⁴ The text of this law in the Serbian language is available on: http://www.paragraf.rs/propisi/krivicni_zakonik.html, accessed on 23rd May 2015.

¹⁵ For more information see <http://www.blic.rs/Vesti/Beograd/544946/NOVA-PREPORUKA-TAKSISTIMA-Ne-vozite-azilante> and http://www.rtv.rs/sr_lat/drustvo/nvo-da-li-taksisti-smeju-da-voze-azilante_582066.html, accessed on 23rd May 2015.

Contagiousness of illegalisation is thus stronger for those providing a type of service to the illegalised migrants – and perhaps it is most strongly felt by the youth hostel owners, as they face certain charges if they accept people without valid residence or entry permits (about similar situation, but applied to landlords in the UK, see Bowling 2015). Here we will present the case of a hostel owner in Belgrade.

The hostel is situated in the relative vicinity of both the main bus and railway stations, and the police station, where the migrants can express their intention to seek asylum in Serbia. Therefore, a lot of people transiting through Serbia come by and ask whether they could stay for a night. The hostel owner started to host migrants about a year and a half ago. When the first guests, who had no valid passports, appeared on the doors of her youth hostel, she did not know what to do. As a youth hostel owner, she is supposed to register every foreigner or non-resident with the “Foreigners department” of the police (to fill in “the white card”)¹⁶ – she is supposed to fill in the information containing the passport number and the date of entry. With people without a valid travel document, she could not do this. She called the police station and first information she got was that she was not allowed to accept migrants at all. Then, after the mediation of an NGO, which is providing legal help to asylum seekers, she got the assurance that she can rent beds to migrants, who have either of the two identification papers, so she started with that practice.

She likes to work with them and says they are very good and polite guests. She believes in humanity – “I am not a nationalist or racist” – and feels compassion and deep concern, especially for those that are very young, travel alone and are separated from their families. She likes to help them in any way she can, usually by washing their dirty clothes and giving them the clean ones, which remained from the previous guests. She has only the words of appraisal for them and she has never had any problems with them.

Besides, she believes that their presence is only beneficial to Belgrade and Serbia. “They are the best tourists: they come dirty and they go to buy everything, from toes to head. The exchange office nearby was about to be closed, but they came and now it works very well. The bakeries and restaurants, everyone has a profit because of them”. Here we can see that, while in her discourses, the need to help others is distressed, there is also clearly an economic factor behind it – as she has mentioned, a lot of places in the centre of Belgrade, including her own hostel, are making additional profit from hundreds of migrants passing through the city.

When talking to a lawyer from one of the NGOs providing legal assistance to migrants, and discussing the criminalisation of youth hostels and other service providers, who become targets of this contagiousness of illegalisation, his legalistic perspective is clear. In his view, the law protects those migrants who are persecuted in their home country (*refugees*), and so by seeking asylum, they become legalised.

¹⁶ An example of the “white card” can be found here: <http://upravusi.rs/wp-content/uploads/2011/07/Zahtev-za-prijavu-boravi%C5%A1ta-prebivali%C5%A1ta-stranca.pdf>, accessed on 26th May 2015.

Hostels should not provide services to those who are “*illegal*” – they should tell them to first report to the police. If they indeed do provide them services, this is clearly illegal and besides, in the eyes of a lawyer working to protect refugees, opens up the door to further exploitation. It is often the case that the locals take advantage of the dire need of “the illegal”, extracting greater profits than usually by charging the illegalised more than the citizens – and can end up being linked with the “illegal” business of human smuggling. The hegemonic legal discourse is indeed very powerful in *masking* the law that creates the problem of the illegalised migrants, and presenting the problem as lying in the individual profiteers and morally reprehensible smuggling networks.¹⁷

Indeed, in the analysis of the youth hostel owner, the “problem” is that the police do not systematically give everyone a “72 hour paper”, or another document to legalise them, as this would enable service providing businesses to not be affected by this illegalisation themselves. Because the police does not “legalise” migrants – and because the law “illegalises” them in the first place – the youth hostel owners are forced to first inquire about the legality of their guests. “When they arrive, I first ask: „Hartia or no hartia? If „yes hartia“, I say „welcome“, if „no“, I say „good-bye““, the hostel owner explained to us. The *hartia* refers to „72 hours paper“ or the written decision that a person must leave Serbia in the prescribed time span – the two documents that would allow them to stay legally in her youth hostel. She described to us that, whenever people arrive, she first offers them some tea – to make them feel welcome and at home, to show them some humanity. The tired travellers appreciate this small act kindness. Nevertheless, when a person arrives and has no legalising paper, she explains to them to go to the police. If they do not get relevant permits in the nearby station (see footnote 12), she advises them to go to another one. In order to avoid the situation that two or more migrants show her the same permit, which is possible, due to the fact that these permits sometimes come without a photo, or are quite worn out, not showing the photo clearly, she has started to write the number of the room with the pencil on the back of the document. She experienced the consequences of not conducting strict legality checks (i.e. document checks) in a series of incident in the past several months.

The first incident happened during her absence from the hostel. Her friend, who was replacing her temporarily, rented out a room to some people without doc-

¹⁷ Indeed, as we are writing this article, the aftermath of the biggest drowning in the Mediterranean in the last decade – when on the 18th of April 2015, 650 people drowned about 73 nautical miles north of the Libyan coast when seeking to reach Italy – is bringing afloat all sorts of confused discourses about the smuggling networks as being the culprit for the deaths. The debates in the mainstream media and politics, center on “criminal networks” and mask the structural conditions which illegalise the border crossing market, deregulate it, and thereby render it even more dangerous and deadly. For a critical perspective see http://www.theguardian.com/commentisfree/2015/may/04/a-punitive-approach-to-refugees-will-lead-europe-to-unrest-and-corruption?CMP=share_btn_fb. See also De Genova 2015 and Sanchez 2014 (Sanchez suggests that we should avoid seeing migration facilitators only from an oversimplified business model perspective: the motivations to get involved in migration facilitating are manifold and should not be reduced to a direct financial benefit).

uments. They assured her that they had been told that they would get the “72 hour paper” in the afternoon, which, apparently, did not happen. When in the afternoon another employee came to take the money for rental, police arrested both of them on the charges that they had breached the law: providing residence to people staying illegally.¹⁸ The employee who received the money pled guilty after some verbal persuasion that this would be best for him, while for the owner’s friend a warrant had been issued. Eventually, both of them got conditional discharges and no jail sentences.

Later on that year, at first from time to time and eventually regularly, the police would call the hostel just to ask her “how many foreigners do you have?” or “how many guests do you have?”. She considered this completely redundant due to the fact that she informed police through the “white card” about her guests. Once police came at 5am in the hostel and raided the whole hostel. They demanded that they see all the rooms, wake up all the guests. This she perceived as a tactic of scaring and intimidation and made her realise the police is indeed very focused on monitoring whether she receives people without documents and whether she is conducting the “document checks” and proper registration of all her guests. Being raided in the middle of the night was also very bad for her business: no one wants to stay in the hostel, where the police is known to raid the rooms in the middle of the night and if the word came out about this, she could lose some of her customers: “They don’t let me do my job”. Just a night before our first interview, she received a phone call during the night, with the police inquiring whether or not some specified person had been staying at her hostel – this again she perceived as pure intimidation.

The last time police came and arrested workers in the hostel was the most traumatic for all of them. It all happened very fast. Within the space of only one weekend, the police first arrested the employees of the hostel and interviewed them for hours. They intimidated them and ended up convincing them that it was best for them to admit to committing the crime – i.e. signing the papers saying they have indeed collaborated in the smuggling of people by accommodating them. This was presented as the best option, as it allowed them only to pay a large fine (several thousands of euro) and to avoid getting a criminal record. Even though she thinks that they did made a small mistake „by not writing in the guest book the name of the guests and our duty is to do so”, she was outraged by the “crimes” she was pressured to admit. “The words that they used, ‘the state border’ and ‘smuggling’ – I even do not want to say them out loud! We haven’t even seen the state borders! How can it be smuggling then!” She believes that she had been fined without any sound reason.

She spoke at length about how horrible it was that the police was not giving out “asylum papers”. She said: “When a person goes to the police, that person needs

¹⁸ The article 350, paragraph 2, of the Criminal law, which is dealing with the illegal border crossing and smuggling, for which the proscribed punishment is jail sentence from 6 months to 5 years. The law is available on: http://www.paragraf.rs/propisi/krivicni_zakonik.html accessed on 23rd of May 2015.

to leave the police, with a paper identifying him and showing that he was at the police – and the police need to give him some sort of paper: either the asylum paper, or the paper, saying that they have 7 or 10 days, or however many days, to leave the country. But not like this!” She was also very outraged by the fact that the police let them go without a paper, and say to them to come tomorrow. “Why do they say them: ‘Come tomorrow’? When we asked for visas [referring to the visa regimes that were in place for Serbians throughout the 1990s and until 2009 – see for example Jansen 2009] and when they told us to come tomorrow, it was for a reason, namely to get some further evidence they required. But these persons will come tomorrow in the same situation, unshowered, tired, nothing will change. It is just because this police officer does not want to do his job, so he tells them to come back tomorrow.”

These events, as she stresses, made her very careful about the papers: “I know that I am a little bit paranoid, but if you experience something like this, you must become paranoid.” As a consequence of the series of intimidation, and also concrete criminalisation of her due to not registering people without documents, she is now very strict about control whether her prospective guests are staying legally or not.¹⁹ As Bowling suggests, this behaviour can be interpreted as both internalization

¹⁹ Another hostel owner, with whom we conducted one semi-structured interview, shared his first experience with the prospect of being criminalized, just for the reason of walking with the illegalized migrants, which eventually led him to become cautious. “I have just started to accept guests in this hostel. Sometime in November [2014], a first group of them came. They were from Syria. I took their passports in order to fill in the white card. In the white card, there is a spot to write the point of entrance into Serbia, that is, a legal border crossing point. But I looked at their passports, and there was no stamp. So I realized that they hadn’t come legally. It was in the afternoon, and I was just going to the police station to hand over the information about my guests (i.e. as youth hostel owners are required to by the law – they have to register all their guests to the police), so I asked the Syrians to wait until I find out what to do with them. So I phoned the police station. The woman, who answered the phone, told me that there was no problem, that they just needed to get a paper that they intended to ask for asylum. I told them so while I was still talking to her. I told her that I am going to the police station myself and she suggested that we all come together. I agreed. So I took them to the police station. It is not far from here, so we just walked down the street. But when we came to the police station, a policeman immediately started to tell me that I had been lucky because I could have been charged for smuggling. I was surprised, I didn’t know what he was talking about. The policeman said that if a police patrol had stopped me in the street with those Syrian guys without documents, I would have been immediately arrested for smuggling. He said: “How you can prove that you haven’t taken any money from them or that you haven’t helped them to come?” I said: “But that colleague of yours, who is sitting over there, told me on the phone to bring them to the station!” She said: “No, I haven’t told you anything. Do you have a proof that I had told you that?” I was so shocked! I went out from the station as soon as I could, and decided whenever I want to get some information from the police, I would demand it in written form, so something like this won’t happen again.” When we asked him how he found out that he can take in guests with “72 hours paper”, he told us that he called the police station again, and talked with some high ranked officer, who explained him the administrative point of view. Now he accepts persons with “72 hours paper” as well as with papers for leaving the country. He does not fill in the “white paper” for them, but he also charges them less than the other guests, only 3 EUR per night.

of borders, which are now reproduced anywhere where some kind of border control is conducted, as well as a transposition of state control to not only private sector, but to individual citizens, too (Bowling 2015). The border agent is thus anyone who has the power to influence the stay or movement of migrants, not some distant *institutions*, but potentially every one of *us*. As Weber points, internal border policing is no longer the exclusive preserve of specialist immigration enforcement authorities; instead the function is dispersed to an ever-expanding array of public and private bodies including police, medical authorities, schools and universities, welfare and regulatory agencies, transport providers, local government, employers, landlords and other private citizens (Weber 2015).

The borders ceased to be perceived and treated as some physical lines: they appear everywhere a border control is done (see Guild 2001, Petrović 2013, 139; Balibar 2004). . This potential of the border to be (re)produced practically anywhere can and does result in the proliferation of the possibilities for the secondary objects of illegalisation. Bowling calls the fusion of migration and crime “*crimigration*” (Bowling 2015). *Crimigration* involves the construction of ‘new’ crimes, ‘new’ forms of law enforcement and processes of criminalization. To paraphrase Pickering and Weber, this leads to the transformation of state practices at the border, which themselves might be considered criminally suspect (Pickering and Weber 2007, 2). This complex state of affairs leads to another interesting result: in order to avoid possible criminalization, individuals are invited to conduct legality checks on the people they meet. As Pozniak and Petrović put it, the securitarian administration of social relations, through the use of governmental technologies, (in this case through viable criminalization), reinforces the isolation of “foreigners”, and a widens the gap between “foreigners” and “citizens”. This can result in abolition of co-operation, communication, negotiation (Pozniak and Petrović 2014, 56), that is, in systemic criminalisation of solidarity between migrants and citizens. The ilegalised migrants can thus be produced as threats for the society and carrying out of police interventions becomes a duty of citizen so the order could be reinstated (see Agamben 1995).

4. Concluding remarks

In this paper we represented two consequences of the illegalization of migrants, through focusing on the problems with their accommodation in privately owned hostels. The first consequence refers to the experience of migrants who are its principle objects. The second one refers to a complex continuation of this primary illegalisation, as all persons that come into contact with the illegalised migrants, can become illegalised. People who are affected by this contagious “illegality” face viable criminalisation in the form of official charges for smuggling, that is, providing professional services to persons that are residing without valid administrative permits in Serbia instead of reporting them to the police in the first place. Thus they represent secondary objects of illegalisation process.

The paper first presented the construction of migrant “illegality” in Serbia and pointed to the relevant aspects of the administrative procedure for legalising

someone's stay in Serbia through showing intention to ask for asylum. We then described some of the migrants' experiences focusing primarily on their accommodation. Then we moved to the perspective of professionals who offer services to migrants and we described how they have been forced – through the prospect of criminalisation – to conduct strict “legality” checks and thus reproduce state borders in their practitioners, vehicles or hostels. The example of a youth hostel allowed us to point out the major problems on a concrete case-study.

The state, through its organs, monitors its own citizens, in relation to their implementation of temporarily extended and displaced control of border-crossing, and punishes (or threatens to punish) them if they somehow avoid doing so. Therefore, the power to influence the mobility of migrants, as well as the responsibility for their fate, is transferred to the hands of ordinary people they meet (De Genova 2002: 426). This “burden sharing” between the state and its citizens leads not to real empowerment of the people, but of the state itself. We see this as a manifestation of the modern power, where the executor is not just the state, or the sovereign, but everybody, through the observance of the ubiquitous force of the disciplining legal apparatus (Foucault 1975).

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Репродуковање граница и заразност илегализације: пример београдског хостела

Током последњих неколико година Србија је постала транзитна земља за све већи број миграната који из Африке и Азије путују ка ЕУ. У оквиру процеса приближавања ЕУ – најпре путем постизања либерализације визног режима за улазак у зону важења Шенгенског споразума 2009. године, а онда и задобијањем статуса земље – кандидата за чланство у 2012. години – Србија је требало да усагласи своје политике са онима које постоје у ЕУ, нарочито у области контроле граница и управљања миграцијама. Као резултат овога, Србија је усвојила низ закона и практичних политика које ефективно *илегализују* мигранте. У првом делу рада посматрамо како се „илегалност“ миграната производи законодавством и практичним политикама у Србији, а затим пратимо последице ове илегализације. Први низ последица представљају оне које осећају сами мигранти, као њихова примарна мета. Други низ последица су оне које утичу на особе које ступају у контакт са илегалizованим мигрантима. У том смислу говоримо о *заразности илегализације*, будући да она утиче на људе који у складу са својом пословном делатношћу пружају услуге илегалizованим особама. Под претњом могуће криминализације, на њих се ставља притисак да спроводе контролу „легалности“ и тако *репродукују границе* далеко од стварних државних граница. На примеру једног београдског хостела посебно се фиксирамо на репродуковање граница у области обезбеђивања смештаја мигрантима,

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мигрант, илегализација, заразност илегалности, криминализација, репродуковање граница